REMARKS/ARGUMENTS

Applicants thank the Examiner for his careful review of this application. Claims 1-8, and 10-20 have been rejected under 35 U.S.C. §103(a). Applicants respectfully request reconsideration of the application in view of the above amendment and the following remarks submitted in support thereof.

Rejections Under 35 U.S.C. § 103:

Claims 1-8 and 10-20 are rejected under 35 U.S.C. §103(a) as being anticipated by US Patents 6,516,350 to Lumelsky et al (Lumelsky) in view of US Patent 6,665,861 to Francis et al. (Francis).

The Examiner asserts that Lumelsky teaches a method for load balancing in a Java based environment. Applicants respectfully traverse the Examiner's assertion because the portion of the reference relied upon by the Examiner (Figure 6) does not disclose a method for load balancing in JAVA based environment. Figure 6 illustrates Service Control Plane (SCP) as essentially comprising two layers: a Service Manger Layer and a System Management Layer. Lumelsky, teaches a system and method for managing and controlling the distribution, sharing and pooling of resources in an Internet/World Wide Web environment in such a manner that is beneficial, accountable, and seamless to the users who are requesting access to multimedia content (Column 5 lines 16-21).

Whereas, the claimed invention teaches a method for load balancing in a JAVA based environment. The application-specific strategies are programmed using JAVA programming language so that the existing JAVA platform of the users need not be altered. The Examiner compares the first service module of the claimed invention to the media streaming of Lumelsky. The service modules of the claimed invention are program modules that include

actual code for the application. Whereas, in Lumelsky, the Service Control Plane (SCP) is augmented to facilitate the management of media streaming. Therefore, the first service module of the claimed invention should not be compared to the media streaming systems of Lumelsky.

Next, the Examiner compares the Service Control Plane (SCP) of Lumelsky to the control module of the claimed invention. This comparison, like the previous comparison, is misplaced. The control module of the claimed invention is a code module that includes application-specific policies for the Java application. The control module of the claimed invention is executed as part of an application, and the control module makes decisions as to how to reallocate the computing resources based on the application specific policies designed into the control module. In the claimed invention, initially, an application having a first service module and a control module is executed. During the execution of the application, a utilization of the system resources is sensed. Then, a second service module is generated using the first service module and the state of the first service module is transferred to the second service module and the first service module is deleted. Here, the second service module is an object.

In contrast, the SCP monitors the availability of the resources, maps the requests to the servers with available resources, predicts utilization of the end-resources and if necessary, dynamically re-distribute the content (column 9, lines 4-7). In Lumelsky, the resources are classified into two: global, and local. The server resources, which are available for borrowing are global and the other resources are local. Global resources are those resources that are used to dynamically replicate the content, in order to accommodate the over all volume of the demand. Local resources are those that are persistent, i.e., the content using the local resources is not changed dynamically by the system. The system assigns clients

across local and global resources and coordinates the placement of replicas of target content across the global resources. The placement is dynamic and performed when necessary based on the utilization patterns of target content and replicas by plurality of clients. It is clear that the service modules created in the claimed invention is not the same as the global resources replicated in Lumlesky.

It is submitted that the combination of Lumelsky with Francis would not have taught the claimed invention. Francis teaches a system for generating semi-deployed enterprise Java beans by using metadata. According to Francis, the invention is directed to an apparatus and method for including, in a Java Archive (JAR) file, such metadata as to provide an enterprise Java bean with deployment information to aid in deployment of the undeployed enterprise Java bean. Moreover, the portion of Francis relied upon by the Examiner i.e. Col 1, line 65-Col 2, line 5 and Col 5, lines 15-20) does not mention anything about the portability of the Java. As can be seen, Francis would not have cured any of the deficiencies pointed out above with respect to Lumelsky. Accordingly, at least for the above stated reasons, independent claims 1, 7, and 15 are patentable under 35 U.S.C. §103(a). Thus, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. §103 (a) rejection. Claims 2-6, 8, and 10-14, 16-20 each of which depends directly or indirectly from independent claims 1, 7, and 15 are likewise patentable at least for the reasons discussed above.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the reference or in the knowledge generally available, to one having ordinary skill in the art, to combine the references. Additionally, the references when combined must teach or suggest all the claim features. As discussed above, Lumelsky teaches management of distributed resources. Francis teaches an invention is directed to an apparatus and method for including, in a JAR file, such metadata as to provide an enterprise

Java bean with deployment information to aid in deployment of the undeployed enterprise Java bean. In contrast, the claimed invention defines a method for load balancing in a Java based environment without altering the existing Java platform. As can be seen, there is nothing in Francis that would have cured any of the deficiencies pointed out above with respect to Lumelsky. Therefore, even if it is deemed that there would have been a proper motivation to combine the references, a proposition with which Applicants disagree, the resulting combination would not include all the claimed features of the independent claims of the claimed invention.

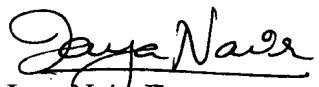
Therefore, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. §103 rejections.

Conclusion

In view of the foregoing, Applicants respectfully submit that all the pending claims 1-8, and 10-20 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested.

If the Examiner has any questions, the Examiner is requested to contact the undersigned at (408) 774-6926. If any additional fees are due in connection with filing this Amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP002B). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
MARTINE & PENILLA, L.L.P.



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